



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

AUG 14 2009

The Honorable Mitch McConnell
United States Senate
361-A Russell Senate Office Building
Washington, D.C. 20510-1702

Dear Senator McConnell:

Thank you for your July 7, 2009, letter to Ms. Joyce Frank, Acting Associate Administrator of Congressional Relations, U.S. Environmental Protection Agency (EPA), on behalf of Mr. Jerry Cabbage, President of Muhlenberg County Farm Bureau. Your letter was forwarded to me for a response.

Mr. Cabbage has requested that licensed explosive shooters be allowed to remove woody debris blockages in Pond River and its tributaries in order to lessen stream bank erosion along agricultural land. This activity will most likely result in a discharge of material into waters of the United States and will likely be regulated under the Clean Water Act (CWA).

The U.S. Army Corps of Engineers (Corps) has responsibility for permitting activities under Section 404 of the CWA. In general, an individual, company or agency proposing a specific activity that results in the discharge of dredged or fill material in waters of the United States must obtain a Section 404 permit or authorization from the Corps. EPA reviews these permit applications to ensure compliance with the CWA. If a Section 404 individual permit is required, steps must be taken to avoid, minimize, and mitigate for impacts to aquatic resources. As part of this process, an applicant must demonstrate that the selected alternative is the least environmentally damaging practicable alternative. Measures to offset unavoidable impacts may be required as part of the permit. Such measures are included as part of the permit and are subject to monitoring and enforcement.

The Corps determines regulatory coverage of specific projects and sites. For this particular request regarding the use of dynamite in a stream, I suggest that he contact the Corps' office serving Muhlenberg County directly to determine if they can address his specific concerns:

U.S. Army Corps of Engineers, Louisville
Romano Mazzoli Federal Building
600 Dr. Martin Luther King, Jr. Place
Louisville, Kentucky 40202
Telephone: 502-315-6692

John S. Cabbage

State regulations or requirements related to this project would most likely be under responsibilities assigned to the Kentucky Division of Water, Water Quality Certification Program. That office can be reached at:

Kentucky Division of Water
200 Fair Oaks Lane
Fourth Floor
Frankfort, KY 40601
Telephone: 502-564-3410

If you have questions or need additional information from EPA, please contact me or the Region 4 Office of Congressional and Intergovernmental Relations at (404) 562-8327.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Stanley Meiburg'.

A. Stanley Meiburg
Acting Regional Administrator

cc: Bruce Scott, Commissioner, KYDEP
U.S. Army COE, Louisville

MITCH McCONNELL
KENTUCKY

361-A RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-1702
(202) 224-2541

United States Senate

REPUBLICAN LEADER
COMMITTEES
AGRICULTURE
APPROPRIATIONS
RULES AND ADMINISTRATION

July 7, 2009

Ms. Joyce Frank
Acting Associate Administrator for Congressional Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Room 3426 ARN
Washington, D.C. 20460

Dear Ms. Frank:

I write on behalf of Mr. Jerry Cabbage, President of Muhlenburg County Farm Bureau. He has contacted me with concerns about EPA regulations that are affecting waterway maintenance. I would appreciate your review and response to my constituent's questions and concerns.

I have enclosed a copy of my constituent's correspondence, for your information. Please direct any inquiries and all relevant information to Allison Thompson in my Washington, D.C. office.

Thank you for your time and assistance. I will look forward to receiving your response.

Sincerely,



MITCH McCONNELL
UNITED STATES SENATOR

MM/at



Muhlenberg County Farm Bureau Federation

P. O. Box 256 • Greenville, Kentucky 42345
Phone: (270) 338-3630 • Fax: (270) 338-5168

Senator Jim Bunning
100 S. Main, Suite 12
Hopkinsville, KY 42240

Dear Senator Bunning,

Muhlenberg County Farm Bureau is requesting that licensed explosive shooters be allowed to use proper measures to remove blockages in Pond River and its tributaries, to alleviate the pressure of debris from the recent storms. The current EPA regulations that are preventing ditch banks from being maintained and have allowed the growth to accumulate in excess along these waterways, have resulted in this debris impacting normal stream flow. Blockages are causing new channels to form and contribute to erosion in these areas. Immediate action is needed for protection of crops and to uphold the integrity of the land.

This method has been used by the Department of Fish and Wildlife for the removal of beaver dams with effective results. This task needs to be done as soon as possible, especially south of Highway 85 in Muhlenberg County.

We appreciate your attention in this matter.

Sincerely,

Jerry Cabbage,
President, Muhlenberg County Farm Bureau

CC: Senator Mitch McConnell, Representative Ed Whitfield, Senator Jerry Rhoads,
Representative Brent Yonts